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2
3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

5 * * *

6 ALEX MARQUEZ,

Case No. 3:15-cv-00492-MMD-CLB

7 Petitioner,

ORDER

8 v.

9 E.K. MCDANIEL, *et al.*,

10 Respondents.
11

12 Petitioner Alex Marquez brought this habeas corpus action under 28 U.S.C. § 2254.
13 (ECF No. 14.) The Court found that Petitioner had not exhausted his state-court remedies
14 for parts of Grounds One, Three, and Seven. (ECF No. 77 at 3, 4, 5–6.) The Court also
15 found that Petitioner had not exhausted his state-court remedies for all of Grounds Four,
16 Five, Ten, and Eleven. (*Id.* at 4, 5, 6–7.) Petitioner has filed a motion to dismiss in part
17 unexhausted grounds and proceed on exhausted grounds or subparts thereof. (ECF No.
18 78.) The Court grants the motion.

19 Ground Eleven is a claim that the cumulative effect of the errors alleged in Grounds
20 One through Ten warrant relief. (ECF No. 14 at 32.) The Court found that Ground Eleven
21 was unexhausted because Grounds One, Three, Four, Five, and Ten were not exhausted,
22 in whole or in part. (ECF No. 77 at 6–7.) The Court had determined that it would not parse
23 through what is left to find a claim of cumulative error. (*Id.*) Upon further reflection, the
24 Court will consider the exhausted portions of Ground Eleven, which is how Petitioner
25 presented the claim in his appeal from the denial of his state post-conviction habeas
26 corpus petition.

27 It is therefore ordered that Petitioner's motion to dismiss in part unexhausted
28 grounds and proceed on exhausted grounds or subparts thereof (ECF No. 78) is granted.

1 The following claims are dismissed from this action: Ground One as to rights other
2 than the Fifth Amendment; Ground Three as to a violation equal protection or the Sixth
3 Amendment; Ground Four; Ground Five; Ground Seven as to the five new claims of
4 ineffective assistance of counsel; Ground Ten; Ground Eleven as to the unexhausted
5 claims.

6 It is further ordered that that Respondents will have 45 days from the date of entry
7 of this order to file and serve an answer, which must comply with Rule 5 of the Rules
8 Governing Section 2254 Cases in the United States District Courts. Petitioner will have 45
9 days from the date on which the answer is served to file a reply.

10 DATED THIS 7th day of April 2020.

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13 MIRANDA M. DU
14 CHIEF UNITED STATES DISTRICT JUDGE
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